

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2015-153256-001 SE

04/08/2016

JUDGE PRO TEM LISA ANDRUS  
FOR JUDGE PRO TEM BRIAN D. KAISER

CLERK OF THE COURT  
A. Pagel-Spaulling  
Deputy

STATE OF ARIZONA

KELLY S NEAL

v.

DWAYNE M TOONE (001)  
DOB: 6/7/1975

KIRK D LEWIS

APO-SENTENCINGS-SE  
APPEALS-CCC  
DISPOSITION CLERK-CSC  
RFR

SUSPENSION OF SENTENCE - PROBATION GRANTED

9:49 a.m.

Courtroom 202 SEA

State's Attorney:	Jason Lewis
Defendant's Attorney:	Kirk Lewis
Defendant:	Present

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The plea agreement is amended to reflect that Defendant has three prior felony convictions (rather than two).

FILED: Amended Waiver Of Preliminary Hearing With Plea Agreement

Count(s) 1: WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of guilty.

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IT IS THE JUDGMENT of the Court Defendant is guilty of the following:

OFFENSE: Count 1 MISCONDUCT INVOLVING WEAPONS

Class 4 FELONY

A.R.S. § 13-3101, 3102, 3105, 105, 610, 701, 702, 801

Date of Offense: 2/20/2015 through and including 2/28/2015

Non Dangerous - Non Repetitive

The Court is suspending imposition or execution of sentence and, under the supervision of the Adult Probation Department (APD), placing the Defendant on probation for:

Count 1 Probation Term: 3 YEARS

To begin 4/8/2016.

Condition 6: Report to the APD within 72 hours of sentencing, absolute discharge from prison, release from incarceration, or residential treatment and continue to report as directed. Keep APD advised of progress toward case plan goals and comply with any written directive of the APD to enforce compliance with the conditions of probation. Provide DNA testing if required by law.

Condition 8: Request and obtain written permission of the APD prior to leaving the state.

Condition 15: Restitution, Fines and Fees:

PROBATION SERVICE FEE: Count 1 - \$50.00 per month, beginning 6/1/2016.

PROBATION ASSESSMENT: Count 1 - \$20.00 payable on 6/11/2016.

All amounts payable through the Clerk of the Superior Court.

Condition 16: Not consume or possess any substances containing alcohol.

Condition 22: Other: Forfeit firearm.

IT IS ORDERED that Defendant shall forfeit all interest in the handgun, handgun magazine, and ammunition seized and/or referenced in Gilbert Police Department Departmental Report No. 15-000003499, and any supplements.

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IT IS FURTHER ORDERED that Defendant shall submit to fingerprint identification processing by the Maricopa County Sheriff's Office if directed to do so by the Adult Probation Department. The Adult Probation Department shall direct any Defendant placed on probation who has not already had a State Identification Number (SID) established to submit to fingerprint processing.

Defendant is advised pursuant to A.R.S. § 13-805 that failure to maintain contact with the Probation Department may result in the issuance of:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.
2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

IT IS ORDERED granting the Motion to Dismiss the following: allegation of the Defendant's prior felony convictions pursuant to A.R.S. §13-703.

IT IS FURTHER ORDERED that Defendant must submit to DNA testing for law enforcement identification purposes in accordance with A.R.S. §13-610.

Pursuant to the terms set forth in the parties' Plea Agreement,

IT IS ORDERED that the Defendant pay all costs associated with the DNA testing ordered herein.

9:55 a.m. Matter concludes.

IT IS ORDERED that defense counsel shall preserve defendant's file for post-conviction relief purposes. If defense counsel receives notice that defendant is seeking post-conviction relief, counsel shall prepare the file for delivery to PCR counsel and shall make timely arrangements for the exchange thereof when notified. Further, upon exchange of the file, defense counsel shall file with the court a Notice of Compliance that shall, at a minimum, include date of compliance, recipient of the file, and an itemization of contents of the file. A copy of the Notice shall be provided to PCR counsel, the State and the PCR Unit.

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Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.

/s/ JUDGE PRO TEM LISA ANDRUS  
JUDICIAL OFFICER OF THE SUPERIOR COURT

(right index fingerprint)